

SERVICE AND TREATMENT CONSIDERATIONS (for children)

Surrogate Parent for Education

Section 39.0016, Florida Statutes, defines “surrogate parent” as an individual appointed to act in the place of a parent in educational decision-making and in safeguarding a child’s rights under the Individual with Disabilities Education Act (IDEA) and Chapter 39.

Who can serve as a surrogate parent and what a surrogate is obligated to do.

- A surrogate parent must be at least 18 years old and have no personal or professional interest that conflicts with the interests of the child to be represented. Neither the superintendent nor the court may appoint an employee of the Department of Education, the local school district, a community-based care provider, DCF, or any other public or private agency involved in the education or care of the child as appointment of those persons is prohibited by federal law. This prohibition includes group home staff and therapeutic foster parents. However, a person who acts in a parental role to a child, such as a foster parent or relative caregiver, is not prohibited from serving as a surrogate parent if he or she is employed by such agency, willing to serve, and knowledgeable about the child and exceptional student education process.
- The surrogate parent may be a court-appointed guardian ad litem or a relative or non-relative adult who is involved in the child’s life regardless of whether that person has physical custody of the child.
- Each person appointed as a surrogate parent must have the knowledge and skills acquired by successfully completing training using materials developed and approved by the Department of Education to ensure adequate representation of the child.
- The person appointed as a surrogate must:
 - be acquainted with the child and become knowledgeable about the child’s disability and educational needs;
 - represent the child in all matters relating to identification, evaluation, and educational placement and the provision of a free and appropriate education to the child;
 - represent the interests and safeguard the rights of the child in educational decisions that affect the child.

Appointment of a surrogate parent.

- The appointment of a surrogate must be entered as an order of court with a copy provided to the child’s school as soon as practicable.
- For a child known to the department, the responsibility to appoint a surrogate parent resides with both the district school superintendent and the court with jurisdiction over the child. If the court elects to appoint a surrogate parent, notice must be provided as soon as practicable to the child’s school.
- The court must accept a surrogate parent duly appointed by a district school superintendent. Similarly, the superintendent must accept the appointment of the court if the superintendent has not previously appointed a surrogate parent. A surrogate parent

appointed by the superintendent or the court must be accepted by any subsequent school or school district without regard to where the child is receiving residential care during the child's entire time in state custody.

- If a guardian ad litem has been appointed for the child, the school superintendent must first consider the guardian ad litem when appointing a surrogate parent.
- Each district school superintendent or dependency court must appoint a surrogate parent for a child known to the department who has or is suspected of having a disability as defined in § 1003.01(3) when:
 - after reasonable efforts, no parent can be located;
 - OR a court of competent jurisdiction over a child in Chapter 39 has determined that no person has the authority under IDEA, including the parent or parents subject to the dependency action, or that no person has the authority, willingness, or ability to serve as the educational decision-maker for the child without judicial action.

Termination of a surrogate parent:

- The termination of a surrogate must be entered as an order of court with a copy provided to the child's school as soon as practicable.
- At any time the court determines that it is in the child's best interests to remove a surrogate parent, the court may appoint a new surrogate parent.
- The surrogate parent continues in the appointed role until one of the following occurs:
 - the child is no longer eligible or in need;
 - the child achieves permanency through adoption or legal guardianship;
 - the previously unknown parent becomes known, whose whereabouts were unknown is located, or who was unavailable is determined by the court to be available;
 - the surrogate no longer wishes or is unable to represent the child;
 - the superintendent, Department of Education contract designee, or the court determines that the surrogate no longer adequately represents the child;
 - OR the child moves to a geographic location that is not reasonably accessible to the surrogate.